

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 16th day of February, two thousand sixteen.

PRESENT:

RICHARD C. WESLEY,
PETER W. HALL,
CHRISTOPHER F. DRONEY,
Circuit Judges.

SIMARGID SINGH,
Petitioner,

v.

LORETTA E. LYNCH, UNITED STATES
ATTORNEY GENERAL,
Respondent.

14-4272
NAC

FOR PETITIONER:

Richard W. Chen, New York,
New York.

FOR RESPONDENT:

Benjamin C. Mizer, Principal
Deputy Assistant Attorney General;
Blair T. O'Connor, Assistant
Director; Joseph D. Hardy, Trial

1 Attorney, Office of Immigration
2 Litigation, United States
3 Department of Justice, Washington,
4 D.C.
5

6 UPON DUE CONSIDERATION of this petition for review of a
7 Board of Immigration Appeals ("BIA") decision, it is hereby
8 ORDERED, ADJUDGED, AND DECREED that the petition for review
9 is DENIED.

10 Petitioner Simargid Singh, a native and citizen of
11 India, seeks review of an October 15, 2014, decision of the
12 BIA, affirming a July 31, 2013, decision of an Immigration
13 Judge ("IJ") denying Singh's application for asylum,
14 withholding of removal, and relief under the Convention
15 Against Torture ("CAT"). *In re Simargid Singh*, No. A087
16 997 710 (B.I.A. Oct. 15, 2014), *aff'g* No. A087 997 710
17 (Immig. Ct. N.Y. City July 31, 2013). We assume the
18 parties' familiarity with the underlying facts and
19 procedural history in this case.

20 Under the circumstances of this case, we have
21 considered the IJ's decision as modified by the BIA, i.e.,
22 minus the IJ's findings that the BIA explicitly declined to
23 consider in affirming the adverse credibility
24 determination. See *Xue Hong Yang v. U.S. Dep't of Justice*,
25 426 F.3d 520, 522 (2d Cir. 2005). The applicable standards

1 of review are well established. 8 U.S.C. § 1252(b)(4)(B);
2 *Xiu Xia Lin v. Mukasey*, 534 F.3d 162, 165-66 (2d Cir.
3 2008). The agency may, "[c]onsidering the totality of the
4 circumstances," base a credibility finding on an asylum
5 applicant's demeanor and inconsistencies in his statements
6 and other record evidence "without regard to whether" they
7 go "to the heart of the applicant's claim." 8 U.S.C.
8 § 1158(b)(1)(B)(iii); *Xiu Xia Lin*, 534 F.3d at 163-64.
9 Substantial evidence supports the agency's determination
10 that Singh was not credible.

11 The agency reasonably relied on Singh's demeanor,
12 noting that his testimony was often unresponsive. See
13 8 U.S.C. § 1158(b)(1)(B)(iii); see also *Majidi v. Gonzales*,
14 430 F.3d 77, 81 n.1 (2d Cir. 2005). That finding is
15 supported by the record.

16 The agency's demeanor finding and the overall
17 credibility determination are bolstered by record
18 inconsistencies. See *Li Hua Lin v. U.S. Dep't of Justice*,
19 453 F.3d 99, 109 (2d Cir. 2006); see also *Xiu Xia Lin*, 534
20 F.3d at 165-67. For example, Singh testified that he was
21 beaten on three separate occasions (once while shopping
22 near a political rally, once while attending a political

1 meeting, and a third time in his parents' home), but in his
2 asylum application and during his credible fear interview,
3 he discussed only two attacks (at the political meeting and
4 at his parents' home). See *Xiu Xia Lin*, 534 F.3d at 164,
5 166-67 & n.3. Further, Singh testified to a significant
6 wrist injury suffered during one of the attacks, but he had
7 not mentioned the injury in either his application or
8 credible fear interview. See *Xiu Xia Lin*, 534 F.3d at 166
9 n.3. Singh did not provide a compelling explanation for
10 any of the record inconsistencies. See *Majidi v. Gonzales*,
11 430 F.3d 77, 80 (2d Cir. 2005).

12 The agency also reasonably relied on the vagueness of
13 Singh's testimony, despite efforts to elicit more details.
14 See *Jin Shui Qiu v. Ashcroft*, 329 F.3d 140, 152 (2d Cir.
15 2003) ("Where an applicant gives very spare testimony, as
16 here, the IJ . . . may fairly wonder whether the testimony
17 is fabricated . . . [and] may wish to probe for incidental
18 details."), overruled in part on other grounds by *Shi Liang*
19 *Lin v. U.S. Dep't of Justice*, 494 F.3d 296, 305 (2d
20 Cir.2007). He could not provide any details as to how many
21 people attacked him, or what month or time of year the
22 attacks occurred.

1 Having questioned Singh's credibility, the IJ
2 reasonably relied further on his failure to provide certain
3 corroborating evidence to rehabilitate his testimony. See
4 *Biao Yang v. Gonzales*, 496 F.3d 268, 273 (2d Cir. 2007).
5 Singh did not provide any medical documentation from India
6 or the United States to corroborate his alleged injuries.
7 He also did not corroborate his religious practice in the
8 United States, although he testified that he attends
9 services twice a day, every day. See *Chuilu Liu v. Holder*,
10 575 F.3d 193, 198 (2d Cir. 2009) ("[T]he alien bears the
11 ultimate burden of introducing such evidence without
12 prompting from the IJ.").

13 Given the demeanor, inconsistency, vagueness, and
14 corroboration findings, the agency's adverse credibility
15 determination is supported by substantial evidence, and is
16 dispositive of Singh's claims for asylum, withholding of
17 removal, and CAT relief. See 8 U.S.C.
18 § 1158(b)(1)(B)(iii); *Paul v. Gonzales*, 444 F.3d 148, 156-
19 57 (2d Cir. 2006). We do not consider Singh's ineffective
20 assistance claim because he did not exhaust it before the
21 BIA. See *Lin Zhong v. U.S. Dep't of Justice*, 480 F.3d 104,
22 107 n.1, 118-24 (2d Cir. 2007).

1 For the foregoing reasons, the petition for review is
2 DENIED. As we have completed our review, any stay of
3 removal that the Court previously granted in this petition
4 is VACATED, and any pending motion for a stay of removal in
5 this petition is DISMISSED as moot. Any pending request
6 for oral argument in this petition is DENIED in accordance
7 with Federal Rule of Appellate Procedure 34(a)(2), and
8 Second Circuit Local Rule 34.1(b).

9 FOR THE COURT:
10 Catherine O'Hagan Wolfe, Clerk